IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

WP(C).No. 31098 of 2007(B)

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PETITIONER:

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BIJU JACOB,
HYDRO TECH ENGINEERS & CONTRACTORS,
KALANJOOR, PATHANAPURAM.

BY ADV. SRI.S.SANTHOSH KUMAR

RESPONDENTS:

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1. THE SALES TAX OFFICER(WORKS CONTRACT & LUXURY TAX), PATHANAMTHITTA-689645.

2. THE DEPUTY TAHSILDAR (RR), TALUK OFFICE, ADOOR-691 523.

BY ADV.SRI.K.P. PRADEEP, GFOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ANTONY DOMINIC, J.**

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**W.P.(C). NO. 31098 OF 2007**

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**Dated this the 29th day of October, 2007**

**J U D G M E N T**

Ext.P1 order relates to the assessment year 2000-01. In terms of Ext.P1, the balance tax due was Rs.2,76,643.20/- and the interest is Rs.1,73,411/-. Petitioner filed Ext.P2 appeal, which is stated to be still pending. During the pendency of the appeal, by Ext.P3 revenue recovery proceedings were initiated which were challenged by the petitioner in W.P. (C) No.25366/07 and the same was disposed of by Ext.P4 judgment.

2. To clarify the position, I should mention that Ext.P3 revenue recovery notice was only in relation to the interest due from the petitioner as per Ext.P1 order of assessment. However, in Ext.P4 judgment this court ordered stay of the recovery proceedings against recovery of the balance arrears of tax as well. This obviously is a mistake. Petitioner submits that the condition of remittance of Rs.50,000/- imposed by this court in Ext.P4 judgment has been complied with and he has remitted the same as is evident from Ext.P5.

3. The compliant now raised is that despite the stay granted in Ext.P4 judgment, fresh revenue recovery proceedings have been initiated as per Ext.P6 and that even after bringing to the notice of the authorities about the stay that was granted by this court, the revenue recovery proceedings are continued. It is hence this writ petition has been filed.

4. Learned Government Pleader on instructions points out that though for the recovery of the tax and interest, revenue recovery requisitions were issued by the respondents, Ext.P3 concerns only the interest portion and that a mistake that was committed in Ext.P4 judgment is sought to be capitalised in this writ petition.

5. I am in full agreement with the learned Government Pleader. In view of the admitted fact that Ext.P3 concerns only interest portion, there is nothing wrong in the revenue recovery proceedings that are now initiated. Therefore, I refuse to interfere with Ext.P6 revenue recovery proceedings.

6. Be that as it may, in view of the fact that the appeal is still pending with the Deputy Commissioner (Appeals) and that there is already an order directing its disposal as per Ext.P4 judgment, I direct that further proceedings pursuant to Ext.P6 shall be kept in abeyance on the petitioner remitting a further sum of Rs.1,00,000/- within two weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

**ANTONY DOMINIC, JUDGE**

vps